



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Improvement Deferral Agreement for 1313 South Stockton Street

MEETING DATE: November 5, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the Improvement Deferral Agreement for 1313 South Stockton Street and authorizing the City Manager to execute the agreement on behalf of the City.

BACKGROUND INFORMATION: The owner of the property, Thule Hitch Systems, has submitted a building permit application (#B20589) for alterations to the manufacturing facilities located at 1313 South Stockton Street (APN 047-050-13).

The owner has requested final inspection and issuance of a Certificate of Occupancy for the manufacturing facilities prior to the completion of the off-site improvements required with the above building permit. Among those are street widening improvements, the installation of curb, gutter, sidewalks, a commercial driveway, street pavement, storm drain improvements and traffic loop modifications.

The owner has signed an Improvement Deferral Agreement and paid the necessary document preparation fee (\$1,756) and recording fees for the agreement. The agreement states that the owner will pay for and complete all of the work and improvements in Stockton Street as itemized in Exhibit B of the agreement within two years from the date of this agreement.

Staff recommends approval of the Improvement Deferral Agreement.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not applicable. Improvement Deferral Agreement Fee (\$1,756) and recording fees have been paid by the property owner.


F. Wally Sandelin
Public Works Director

Prepared by Chris Boyer, Junior Engineer

FWS/CRB/pmf

cc: Junior Engineer Boyer

APPROVED:


Blair King, City Manager

WHEN RECORDED, RETURN TO:

City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

IMPROVEMENT DEFERRAL AGREEMENT

1313 S. Stockton Street
APN 047-050-13

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and THULE HITCH SYSTEMS, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, and described as follows:

See Exhibit " A attached hereto and incorporated herein

A building permit (~~#B20589~~) has been issued for alterations **to** the manufacturing facilities located at 1313 S. Stockton Street (APN 047-050-13). Owner will **comply** with existing City ordinances and policies regarding off-site improvements as set forth in Title 15, Chapter 15.44 of the Lodi Municipal Code. However, due to the current difficult financial environment, Owner has requested final inspection and issuance of a Certificate of Occupancy for the manufacturing facilities prior to the completion of the off-site improvements required with the above building permit which include street widening improvements, including but not limited to, the installation of curb, gutter, sidewalks, a commercial driveway, street pavement, storm drain improvements and traffic loop modifications.

Council of the City will approve the issuance of a Certificate of Occupancy on condition that the owner first enter into and execute this agreement with the City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner will pay for and complete all of the work and improvements in Stockton Street as itemized in attached Exhibit B within two (2) years from the date of this agreement. Preliminary drawings for said improvements (008D006-01 through 008D006-06) are on file in the Public Works Department.
2. City shall reimburse Owner for the cost of those improvements itemized as "City Responsibility" on Exhibit B .

3. Should any entitlement programs providing financial assistance to cover the cost of the required improvements be available at the time of construction, the City will assist the Owner with the submittals required to qualify for said programs. However, City will not have any obligations to Owner should the grants not be awarded whether caused by the fault of the City or otherwise.
4. If Owner fails to complete the required improvements within the time period specified in **Item #1** above, the Public Works Director or the City Council may serve written notice upon Owner for breach of this agreement and the default of Owner.
5. In the event of any such notice of breach, Owner shall have the duty to complete the required improvements provided, however, if within five days after the serving of notice, Owner does not give the City written notice of its intention to complete the improvements, and does not commence the required work within five days after its notice to City, the City is hereby authorized to complete the improvements for the account and the expense of Owner, and Owner shall be liable to City for any excess cost or damage occasioned to City thereby.
6. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
7. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O. Box 1968, Stockton, California 95201-1968.
8. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

F. Wally Sandelin
Public Works Director
City of Lodi
P. O. Box 3006
Lodi, CA 95240-1910

Notices required to be given to Owner shall be addressed as follows:

Thule Hitch Systems. LLC
1313 S. Stockton Street
Lodi, CA 95240-5942

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: _____ 2008

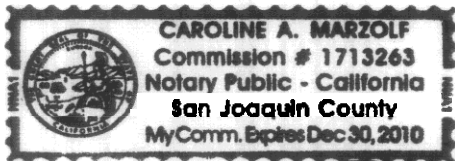
By: _____
Blair King, City Manager

Attest: _____
Randi Johl, City Clerk

THULE HITCH **SYSTEMS**

Dated: Oct 6, 2008

Thomas McMillan
Thomas McMillan



Approved as to form: _____

D. Stephen Schwabauer
D. Stephen Schwabauer
City Attorney

Dated: 9/24 2008

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

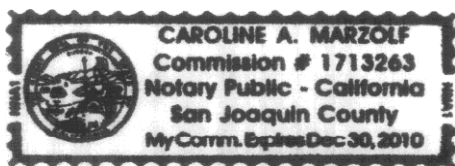
State of CALIFORNIA

County of SAN JOAQUIN

On OCT 6, 2008 before me, CAROLINE A. MARZOLF, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared THOMAS McMILLAN
Name(s) of Signer(s)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Caroline A. Marzolf
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
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LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

The East 200.00 feet of Lot 60, as shown upon that certain map entitled, Lodi Barnhart Tract, filed for record November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records.

PARCEL TWO

The South 270.00 feet of the East 200.00 of Lot 61, as shown upon that certain map entitled, Lodi Barnhart Tract, filed for record November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records.

PARCEL THREE:

Lot 60, as shown upon that certain map entitled, Lodi Barnhart Tract, filed for record November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records.

Excepting therefrom the East 200.00 feet thereof.

Also except that portion as conveyed to Southern Pacific Company by Deed recorded February 25, 1969 in Volume 3279, Page 348, of Official Records, as Document No. 7739, San Joaquin County Records.

Also Excepting From PARCELS ONE and THREE that portion of Lot 60 of said Lodi Barnhart Tract taken by the State of California, by Order of Condemnation, dated September 7, 1973, a certified copy of which recorded September 7, 1973 in Book 3800 of Official Records, Page 401, as Document No. 43044, lying East of the East line of that certain parcel of land described in Deed to the Southern Pacific Company recorded February 25, 1969 in Volume 3279, Page 348, as Instrument No. 7739, of Official Records, San Joaquin County Records, and Southerly of the following described line:

Beginning at point on the West line of Stockton Street (a city street 60 feet in width), said point having co-ordinates Y=589,324.03 feet and X=1,778,862.80 feet and lying 44.90 feet North and 3.43 feet of an axle set to mark the South quarter corner of Section 12, Township 3 North, Range 6 East, Mount Diablo Base and Meridian; thence (1) South 87°31'59" West, 27.77 feet; thence (2) North 89°20'42" West, 550.82 feet; thence (3) South 89°03'30" West, 249.65 feet to said East line.

Co-ordinates, bearing and distances used in the above description are based on the California Co-ordinate System, Zone 3.

PARCEL FOUR

Lot 61, as shown upon that certain map entitled, Lodi Barnhart Tract, filed for record November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records.

Excepting therefrom the South 270.00 feet of the East 200.00 feet thereof.

Also except that portion as conveyed to Southern Pacific Company by Deed recorded February 25, 1969 in Volume 3279, Page 348 of Official Records, San Joaquin County Records.

Also excepting from PARCELS ONE, TWO and FOUR that portion granted to the City of Lodi by Deed recorded May 9, 1984, Recorder's Instrument No. 84-32180, Official Records of San Joaquin County.

EXHIBIT "A" (continued)

PARCEL FIVE:

A portion of Lot 62 of Lodi Barnhart Tract, filed November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records and more particularly described as follows:

Commencing at the Southwest corner of said Lot 62; Thence North $86^{\circ}26'$ East 824.30 feet to the intersection of the South line of said Lot 62 and the West line of Stockton Street, said point also being the point of beginning; thence North along the West line of Stockton Street 95 feet; Thence South $86^{\circ}26'$ West 130 feet; Thence South, 95 feet to the South line of said Lot 62; Thence North $86^{\circ}26'$ East along the South line of said Lot 62, 130 feet to the point of beginning.

Except therefrom that portion described in Deed to the City of Lodi by Deed recorded November 6, 1964 in Book 2883, Page 357, of Official Records, San Joaquin County Records, and more particularly described as follows:

Commencing at the Southeast corner of Lot 62 Barnhart Tract, as filed for record on November 5, 1906 in Volume 3, Page 48, Book of Maps and Plats, San Joaquin County Records; Thence South $86^{\circ}26'$ West 30.06 feet to the true point of beginning thence North, parallel to and 30.00 feet from the East line of said Lot 62, 95.00 feet; Thence South $86^{\circ}26'$ West, 11.02 feet; Thence South, parallel to and 41.00 feet from the East line of said lot, 95.00 feet; thence North $86^{\circ}26'$ East, 11.02 feet to the true point of beginning.

PARCEL SIX:

A portion of Lot 62 of Lodi Barnhart Tract, filed November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records and more particularly described as follows:

Beginning at the Southwest corner of said Lot 62, thence North $3^{\circ}44'$ East along the West line of said Lot 62, a distance of 312.14 feet; thence North $86^{\circ}25'$ East along the South line of the North 0.38 acres of said Lot 62 a distance of 673.95 feet; thence South 310.44 feet more or less to the South line of said Lot 62; thence South $86^{\circ}25'$ West along the South line of said Lot 62 a distance of 694.30 feet to the point of beginning.

Except therefrom that portion described in Deed to Southern Pacific Company by Deed recorded November 1, 1967 in Book 3163, Page 558, of Official Records, San Joaquin County Records, and more particularly described as follows:

That portion of the Westerly 25 feet of said Lot 62 included within the following described parcel of land:

Beginning at the Southwest corner of said Lot 62; thence North $3^{\circ}44'$ East along the West line of said Lot 62 a distance of 312.14 feet; thence North $86^{\circ}25'$ East along the South line of the North 0.38 acres of said Lot 62 a distance of 673.95 feet; thence South 310.44 feet more or less to the South line of said Lot 62; thence South $86^{\circ}26'$ West along the South line of Lot 62 a distance of 694.30 feet to the point of beginning.

PARCEL SEVEN:

An easement for the installation, operation, maintenance and repair of private utilities over, under and across the North 8 feet of that portion of Lot 62 of Lodi Barnhart Tract, filed November 5, 1906 in Volume 3, Page 48, of Maps and Plats, San Joaquin County Records, as conveyed to Anvil West, Inc., a California corporation by Deed recorded July 10, 1964, in Book 2842, Page 114 of Official Records, as Document No. 34345, described as follows:

Commencing at the intersection of the West line of Stockton Street with the South line of said Lot 62; thence North 290 feet along the West line of Stockton Street to the point of beginning; thence North $86^{\circ}26'$ West, 130 feet; thence North, 20.44 feet; thence North $86^{\circ}25'$ East, 130 feet to the West line of Said Stockton Street; thence South along said West line 20.44 feet to the point of beginning.

APN: 047-050-13

City of Lodi
Public Works Department

Development:	1313 Stockton Street	n/a
Developer	Thule Hitch Systems LLC.	8/14/08
Engineer:	Siegfried Engineering, Inc	

TOTAL COST OF PROJECT IMPROVEMENTS				A. OWNER RESPONSIBILITY	B. CITY RESPONSIBILITY
<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Quantity</u>	<u>Quantity</u>
<u>Street System</u>					
1	Clearing and Grubbing, Lot Grading	1	LS	1	
2	Aggregate Base, Class II (.60')	5,152	SF	3,308	1,844
3	Asphalt Concrete, Type A (0.60')	5,152	SF	3,308	1,844
4	Vertical Curb and Gutter	548	LF	548	
5	Sidewalk	2,740	SF	2,740	
6	Commercial Driveway (24' wide)	1	EA	1	
7	Traffic L w p Reconnection	1	LS	0	1
8	Traffic Control	1	LS	0.5	0.5
9	Erosion Control	1	LS	1	
<u>Storm Drain System</u>					
1	12" Storm Drain Pipe	38	LF	20	16
2	48" Storm Drain Manhole	1	EA	1	
3	Side Inlet Catch Basin	2	EA	1	1

RESOLUTION NO. 2008-212

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
IMPROVEMENT DEFERRAL AGREEMENT FOR
1313 SOUTH STOCKTON STREET

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Improvement Deferral Agreement for 1313 South Stockton Street; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to execute the Improvement Deferral Agreement on behalf of the City of Lodi.

Dated: November 5, 2008

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I hereby certify that Resolution No. 2008-212 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 5, 2008, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, and
Mayor Mounce

NOES: COUNCIL MEMBERS – Hitchcock

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk